

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
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Arlington, VA 20598-7100
Staff Symbol: (CA)

Phone: [REDACTED]

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5890

3/17/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]
Panama City Beach, FL 32407

RE: Claim Number: N10036-0488

Dear [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-0488 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[REDACTED]
Claims Adjudication Division
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/17/2011
Claim Number	: N10036-0488
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$5,000.00

FACTS:

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT:

On January 14, 2011, [REDACTED] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking \$5,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon oil spill.¹

[REDACTED] provided a copy of his income tax filing for 2009 which indicated his income for the year was from unemployment benefits in the total amount of \$6,648.00 although he also provided a copy of his 2009 1099-G which indicated a total of \$9,048.00 in unemployment compensation for the year. Additionally, [REDACTED] provided a copy of his income tax filing for 2008 which indicated he earned \$3,864.00 from [REDACTED] Leasing and he also earned \$5,908.00 in unemployment benefits. Finally, [REDACTED] provided a copy of his 2007 income tax filing which indicated gross wages as \$16,674.00.

The Claimant submitted a claim to GCCF and received Claim # [REDACTED]. The Claimant received an Emergency Advance Payment on September 29, 2010 in the amount of \$2,000.00 and a Quick (final) Payment some time during the month of December 2010 in the amount of \$5,000.00. The total received from GCCF is \$7,000.00².

REQUEST FOR RECONSIDERATION:

On March 16, 2011, the Claimant sent a letter requesting reconsideration of the NPFC's initial denial dated January 24, 2011. The NPFC denied the claim originally because the Claimant had received two payments from the RP with the final payment being a "final quick pay payment" whereby the RP received an executed release. In the Claimant's letter dated March 4, 2011, the Claimant advised the NPFC that he was forced to accept that final payment of \$5,000.00 offered by the GCCF because ... "I was forced to take this as a matter of life or death."

¹ The Claimant's OSLTF submission dated 30 December 2010.

² See Claimant letter dated December 30, 2010.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via a letter dated March 4, 2011. To support his request for reconsideration, the claimant provided no new information.

NPFC Determination on Reconsideration

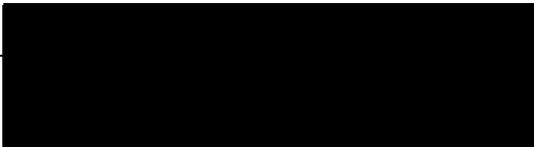
Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the injury, destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all of the documentation presented by the Claimant.

The NPFC received confirmation from the GCCF via an email dated February 18, 2011, whereby they have confirmed that they possess a signed release from the Claimant in exchange for the \$5,000.00 final payment they issued the Claimant therefore the Claimant has been fully compensated by the RP for his alleged losses and is therefore not eligible for compensation from the OSLTF. In the Claimant's letter requesting reconsideration, he has confirmed receipt of the final \$5,000.00 payment but stated he was hoping the NPFC would pay him the amount he was shorted by the GCCF.

The NPFC again denies the claim because the Claimant has been fully compensated for his losses by the GCCF and has signed a release in exchange for the final payment of \$5,000.00.

Determination amount: \$0.00

Amount denied: \$7,000.00

Claim Supervisor: 

Date of Supervisor's review: 3/17/11

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments: